

REMARKS

Applicant respectfully requests reconsideration and allowance of claims 1-5 and 7-15 that are pending in the above-identified patent application. Claims 1-5 and 7-15 stand rejected. In view of the following discussion, Applicant submits that all pending claims are in condition for allowance.

At pages 3 of the Office Action, the Examiner rejected claims 1-5 and 7-15 under 35 U.S.C. § 103(a) as being obvious over East et al., U.S. Patent Pub. No. 2003/0061323 (hereinafter referred to as “East”) in further view of Capps et al., U.S. Pat. No. 6,735,691 (hereinafter referred to as “Capps”). Applicant respectfully traverses the Examiner’s rejection.

East teaches that an advantage of its system is that when a new client computer is installed, the server can automatically install the default configuration. (par. 60). East also emphatically teaches that similar client computers should be configured similarly, as selected by the administrator. (par. 58) This teaching is repeated throughout East. For example, at par. 64, East teaches that thousands of client computers should have the same updates distributed to them, and that the same update information should be sent to “thin clients”. At par. 9, East touts an advantage of its system – network wide updates – and at par. 8, East talks about mass distribution of the same update information. East’s main goal is to permit widespread, massive, distribution of similar software to multiple computers to specifically avoid the administrator computer having to communicate with and separately configure each separate computer differently. East says so more than half a dozen times throughout. East is directed entirely to the avoidance of having to contact and personalize each computer separately, and East accomplishes this goal by making all the computers homogenous and efficiently distributing the same software updates and default configurations to all of them.

Applicant submits that the combination of the teachings of East and Capps is improper. Gathering personalization information from a particular computer, and then distributing it to one other particular computer, hierarchically, when replaced, would defeat the entire purpose of East, because East is attempting to avoid this administrative burden by avoiding each computer having to be personalized with different information. A combination that, if made, would destroy the intended purpose of the main reference teaches away and may not establish obviousness.

McGinley v. Franklin Sports, Inc., 262 F.3d 1339 (Fed. Cir. 2001); *In re Gurley*, 27 F.3d 551,

553 (Fed. Cir. 1994); *In re Gordon*, 733 F.2d 900 (Fed. Cir. 1984); *In re Spinnoble*, 405 F.2d 578, 587 (CCPA 1969). In view of the above, Applicant submits that those skilled in the art would not combine the teachings of East and Capps.

For argument sake, even if one would combine the teachings of East and Capps (which Applicant maintains that such a combination would be improper), the combination does not result in the present invention.

With respect to claim 1, neither reference teaches that three different types of information are downloaded, the first to personalize the first server, the second to personalize one client, and the third to personalize plural clients.

Regarding claim 7, neither reference teaches that the personalization information is downloaded to the server, used to at least partially personalize the server, and then further downloaded to other clients and used to personalize them.

Regarding claim 12, it also defines the two step hierarchical personalization process whereby information is collected from a server and client, it is then downloaded to a new server, the new server personalized, and the information is further then propagated to a new client. In fact, although Figure 1 of Capps shows a Server 104 other than the one that hosts the migration manager, there is not even the most remote suggestion that the personalization information should flow from the migration server 102 to the other server 104, be used to personalize the other server 104, and thereafter, then propagate to one or more other client computers 106-108 and used to personalize them. This teaching is not in either reference, but is in the present claim 12.

Applicant respectfully submits that even if the teach away of East were ignored, and the references combined, the combination would thus be missing plural claim limitations related to the tiered personalization by transmitting a bundle of data from a first to a second server, “stopping off” to personalize the first server, and then continuing down the hierarchy to personalize a client connected to that server with information collected from a client that the client to be personalized is intended to replace.

As the subject dependent claims include the limitations of independent claims 1, 7, and 12, the subject dependent claims are, therefore, likewise patentable. Accordingly, Applicant respectfully requests that the Examiner's § 103 rejection be withdrawn.

In view of the foregoing, Applicant submits that the instant claims are in condition for allowance. Early and favorable action is earnestly solicited. The petition fee is included herewith. In the event there are any fees due and owing in connection with this matter, please charge same to our Deposit Account No. 11-0223.

Dated: April 3, 2008

Respectfully submitted,

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